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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,085	07/12/2001	Richard L. House	062891.0555	1874

7590 09/07/2004

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EXAMINER

KNOLL, CLIFFORD H

ART UNIT	PAPER NUMBER
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2112

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Advisory Action</b>	Application No. 09/904,085	Applicant(s) HOUSE, RICHARD L.	
	Examiner Clifford H Knoll	Art Unit 2112	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: not persuasive: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

*Khanh Dang*

Khanh Dang  
Primary Examiner

***Response to Arguments***

Applicant's arguments filed 8/10/2004 have been fully considered but they are not persuasive.

Applicant argues that "a rejection based solely on the provisional application would clearly be improper because that application does not qualify as prior art under 35 U.S.C. Section 102" (p. 9); however Examiner has maintained the rejection using Liva publication and *not* using the provisional application. Passages from the provisional cited in the response serve to show that the provisional application discloses those limitations in the Liva publication relied upon in the rejection.

Applicant argues that claim 1 is allowable "at least because 'coupling the input node of the first card to the input node of the second card to provide redundancy for the first card by connecting the input node of the first card to the associated output node of the first card' limitation is not shown in Liva" (p. 9); however, this limitation is supported by Liva at paragraph 23, as indicated in the rejection.

Applicant further argues that this limitation is shown in the provisional application rather than in the Liva publication used; however, the "Line Card #1" of the provisional application was cited *in the response* to support the citation of paragraph 23 of the Liva publication *in the rejection*. Applicant's remarks of 3/31/2004 questioned the priority of the Liva disclosure; therefore it was considered appropriate in response to show evidence of anticipation in the provisional application and correlate this with citations from the Liva publication;

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Examiner has made clear the relationship between the provisional disclosure and the publication disclosure that was cited in the rejection.

Applicant further argues that "the provisional application also fails to disclose 'coupling the input node of the first card to the input node of the second card to provide redundancy for the first card by connecting the input node of the first card to the associated output node of the first card' and for this additional reason the rejection is improper, because Liva does not predate the present Application"; however the date relied upon is the *provisional date*; further, the *provisional application* was determined to disclose the same features relied upon in the *publication*.

Applicant further argues that "the labels 'Line card #1' and 'Line card #2' do not refer to line cards having the given circuitry, but rather that the illustrated circuitry may be connected to 'Line Card #1' and Line Card #2'; however this precisely discloses the coupling of nodes disclosed in the present application.

Regarding claims 35-37, Applicant argues that the Office Action has failed to make a prima facie showing of equivalence between the asserted element and the 'means for selectively connecting' and the 'means for connecting' claimed in claim 35, as required by the Manual of Patent Examining Procedure" (p. 10); however the 'means for selectively connecting' and the 'means for connecting' are clearly shown in the cited Figure.